UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/561,644	05/31/2006	Mikko Nevalainen	BKS.004.WUS	8265

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EXAMINER
CASCA, FRED A

ART UNIT	PAPER NUMBER
2617	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _09/23/2008_.
2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-17 and 19-36_ is/are pending in the application.
    4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☒ Claim(s) _1-17 and 19-37_ is/are rejected.
7)☐ Claim(s) _____ is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.
10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a)☐ All   b)☐ Some * c)☐ None of:
      1.☐ Certified copies of the priority documents have been received.
      2.☐ Certified copies of the priority documents have been received in Application No. _____.
      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .
5)☐ Notice of Informal Patent Application
6)☐ Other: _____.

DETAILED ACTION

1.   This action is in response to applicant's amendment filed on August 23, 2008. Claims 1-

17 and 19-36 are still pending in the present application. **This Action is made FINAL.**

Claim Rejections - 35 USC § 101

2.   35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new
> and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 17 is rejected under 35 U.S.C. 101 because the claimed invention is directed to

non-statutory subject matter.

Claim 17 is drawn to a "computer program product" *per se* as recited in the

preamble and as such is non-statutory subject matter. See MPEP § 2106.IV.B.1.a. Data

structures not claimed as embodied in computer readable media are descriptive material

per se and are not statutory because they are not capable of causing functional change in

the computer. See, e.g., *Warmerdam*, 33 F.3d at 1361, 31 USPQ2d at 1760 (claim to a

data structure *per se* held nonstatutory). Such claimed data structures do not define any

structural and functional interrelationships between the data structure and other claimed

aspects of the invention, which permit the data structure's functionality to be realized. In

contrast, a claimed computer readable medium encoded with a data structure defines

structural and functional interrelationships between the data structure and the computer

software and hardware components which permit the data structure's functionality to be

realized, and is thus statutory. Similarly, computer programs claimed as computer

listings *per se*, i.e., the descriptions or expressions of the programs are not physical

"things." They are neither computer components nor statutory processes, as they are not

"acts" being performed. Such claimed computer programs do not define any structural

and functional interrelationships between the computer program and other claimed

elements of a computer, which permit the computer program's functionality to be

realized.

Examples of acceptable language in computer-processing related claims are as follows :

A.   "computer readable medium" encoded with _____
        [a] "a computer program"
        [b] "software"
        [c] "computer executable instructions"
        [d] "instructions capable of being executed by a computer"

B   "a computer readable medium" _____ "computer program"
        [a] storing a
        [b] embodied with a
        [c] encoded with a
        [d] having a stored
        [e] having an encoded

Claim Rejections - 35 USC § 103

3.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

4.   Claims 1-8, 12-14, 16-17, 19-23, 25-29, 31-32 and 35-36 are rejected under 35 U.S.C.

103(a) as being unpatentable over Imaeda (US 2004/0204093 A1) in view of Silvester (US

2005/0064893 A1).

Referring to claim 1, Imaeda discloses a method (abstract and figure 1) comprising:

detecting that an interchangeable memory has been connected to a mobile terminals device which includes an interface for connecting to memory (paragraph 22, 23, 32, note communication takes place, thus memory card detection is inherent. Further note that the terminal connects to a memory unit and the connection has to take place via an interface) and a cellular network interface (Fig. 1, and par. 28, 26, 59) ,

retrieving a network address of a network server (paragraph 28, 32-34, "memory card 202 communicates and makes a connection with the data server 203"),

and setting up a connection between the mobile terminal device and said server via said cellular network (Fig. 1, and paragraph 28, 32-34, "memory card 202 communicates and makes a connection with the data server 203").

Imaeda does not specifically disclose that the memory unit is a interchangeable memory unit as claimed.

Silvester discloses that a cellular phone is equipped with a interface that allows receiving a memory card (Fig. 1-5, abstract and par. 13, 18, 21 and 22, "memory cards", "PC card", "memory", "slideably received").

It would have been obvious to one of the ordinary skill in the art at the time of invention to modify the method of Imaeda in the format claimed by incorporating the teachings of Silvester, for the purpose of providing an efficient communication terminal.

Referring to claim 2, the combination of Imaeda/Silvester discloses the method according to claim 1, wherein said network address of said server is stored in said interchangeable memory, and that said network address of said server is retrieved from said interchangeable memory (paragraphs 26 and 32).

Referring to claim 3, the combination of Imaeda/Silvester discloses the method according to claim 1, wherein said network address of said server is stored in said mobile terminal device, and that said network address of said server is retrieved from said mobile terminal device (figure 1 and paragraphs 22 and 26, 28, note cell phone inherently store base station addresses).

Referring to 4, the combination of Imaeda/Silvester according to claim 1, further comprising activating a cellular network application being stored on said interchangeable memory in an online mode (paragraphs 22 and 26, 28 and figures 1-6).

Referring to claim 5, the combination of Imaeda/Silvester discloses the method according to claim 1, wherein said interchangeable memory contains application ID data of said cellular network application and in that said method further comprises retrieving said application ID data and transferring said application ID data to said connected server (paragraph 32).

Referring to claim 6, the combination of Imaeda/Silvester discloses the method according to claim 1, further comprising sending a user confirmation request to a user interface for setting up a connection to said server address via said network, and setting up a connection to said server at said server address via said network, only if said requested user confirmation is detected (paragraph 50 and 53, "access rights").

Referring to claim 7, the combination of Imaeda/Silvester discloses the method according to claim 1 anyone further comprising obtaining preference data of a user for said cellular network application, and storing said preference data within said interchangeable memory (paragraph 8, "image photographed by the digital camera").

Referring to claim 8, the combination of Imaeda/Silvester disclose the method according to claim 1 further comprising retrieving preference data of a user for said cellular network application stored in said interchangeable memory, and transferring said preference data to said connected server (paragraphs 8, 32-33 and 58).

Referring to claims 12, 19 and 26, claims 12, 19 and 26 recite features analogous to the features defined by claim 1 (as rejected above). Thus, the combination of Imaeda/Silvester discloses all elements of claims 12, 19 and 26 (please see the rejection of claim 1 above).

Referring to claim 13, claim 13 recites features analogous to the features defined by claim 7 (as rejected above). Thus, the combination of Imaeda/Silvester discloses all elements of claim 13 (please see the rejection of claim 7 above).

Referring to claim 14, claim 14 recites features analogous to the features defined by claim 4 (as rejected above). Thus, the combination of Imaeda/Silvester discloses all elements of claim 14 (please see the rejection of claim 4 above).

Referring to claim 16, the combination of Imaeda/Silvester discloses a computer program product comprising program code means stored on a computer readable medium for carrying out the method of claim 1 when said program product is run on a computer or network device (see

the rejection of claim 1 and note that all the automatic interfaces, connections and communications are inherently run by a computer code).

Referring to claim 17, Imaeda discloses a computer program product comprising program code, downloadable from a server for carrying out the method of claim 1, when said program product is run on a computer or network device (see the rejection of claim 1 and note that all the automatic interfaces, connections and communications are inherently run by a computer code).

Referring to claims 20-23, claims 20-23 are rejected for the same reasons that claim 1 and 3-6 are rejected (please refer to the rejection of claims 1 and 3-6).

Referring to claim 25, the combination of Imaeda/Silvester discloses the mobile terminal device according to claim 19–wherein said cellular network application is a cellular network game (figure 1).

Referring to claims 27-29 and 31-32, claims 27-29 and 31-32 are rejected for the same reasons that claim 1 and 3-7 are rejected (please refer to the rejection of claims 1, 3-7).

Referring to claims 35-36, claims 35-36 are rejected for the same reasons that claims 16-18 are rejected (please see the rejection of claims 16-18 above).

5.   Claims 9-11, 15, 24, 30 and **33-34** are rejected under 35 U.S.C. 103(a) as being unpatentable over Imaeda (US 2004/0204093 A1) in view of Silvester (US 2005/0064893 A1) and still further in view of well known prior art (MPEP 2144.03).

Referring to claim 9, the combination of Imaeda/Silvester discloses the method according to claim 1.

Imaeda does not specifically disclose cellular network application is a cellular network game.

The examiner takes official notice of the fact that cellular game applications are well known in the art.

It would have been obvious to one of the ordinary skill in the art the time of invention to modify the combo as claimed by incorporating the well known concepts in the art, for the purpose of satisfying a larger group of users.

Referring to claim 10, the combination of Imaeda/Silvester and well-known art discloses the device of claim 9, and further disclose storing said data in said interchangeable memory (figures 2-9).

Referring to claim 11, the combination of Imaeda/Silvester and well-known art discloses the device of claim 9, and further disclose retrieving data of a user stored in said interchangeable memory, and transferring preference data of a user to said connected game server (figures 2-9).

Claim 15 is rejected for the same reasons that claim 9 is rejected (see the rejection of claim).

Claims 24 and 30 are rejected for the same reasons that claims 9 and 10 are rejected (see the rejection of claims 9-10 above).

Referring to claim 33, claim 33 is rejected for the same reasons that claim 9 is rejected (please see the rejection of claim 9 above).

Referring to claim 34, the combination of Imaeda/Silvester and well-known art discloses the device of claim 33, and further disclose a storage controller is provided to send said server address and said script to the interface (figures 2-8 and paragraph 32-34, note that a controller to manipulate a destination address is inherent).

6.   Claims 9-11, 15, 24, 30 and 33-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Imaeda (US 2004/0204093 A1) in view of Silvester (US 2005/0064893 A1) and still further in view of well known prior art (MPEP 2144.03).

Referring to claim 9, the combination of Imaeda/Silvester discloses the method according to claim 1.

Imaeda does not specifically disclose cellular network application is a cellular network game.

The examiner takes official notice of the fact that cellular game applications are well known in the art.

It would have been obvious to one of the ordinary skill in the art the time of invention to modify the combo as claimed by incorporating the well known concepts in the art, for the purpose of satisfying a larger group of users.

Response to Arguments

7.   Applicant's arguments with respect to claims 1-8, 12-14, 16-17, 19-23, 25-29, 31-32 and 35-36 have been considered but are moot in view of the new ground(s) of rejection.

Applicant's arguments with respect to claims 9-11, 15, 24, 30 and 33-34 have been considered but they are not persuasive.

Applicant argues with respect to claim 9 that a cellular network application being a cellular network game is not well known in the art. The examiner respectfully disagrees. At least the following references teach that cellular network games are well known concepts: Reference Ono et al (US 2004/0192412 A1, paragraph 4, "down-loaded games on the cellular phones"), reference Lee et al (US 2004/0157593 A1, Par. 7), reference Takayama et al (US 2004/0127201 A1, Par. 44), reference Wang (US 2002/0151282 A1, Par. 2). Thus, the concept of cellular network application being a game application is well known in the art, and therefore, the rejection of claim 9 and its dependent claims under 35 USC 103 in view of the cited references combined with Well-Known art is maintained.

Conclusion

8.   Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fred A. Casca whose telephone number is (571) 272-7918. The examiner can normally be reached on Monday through Friday from 9 to 5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Harper, can be reached at (571) 272-7605. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/VINCENT P. HARPER/

Supervisory Patent Examiner, Art Unit 2617